

ATTACHMENT 6

Declaration of George F. Gardner Filed May 7, 1990

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MAY 7 - 1990

LAW OFFICES
COHEN AND BERFIELD, P.C.

BOARD OF TRADE BUILDING
1129 20TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 466-8565

LEWIS I. COHEN
MORTON L. BERFIELD
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JOHN J. SCHAUBLE*

*VIRGINIA BAR ONLY

Federal Communications Commission
Office of the Secretary
TELECOPIER
(202) 785-0934

May 7, 1990

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

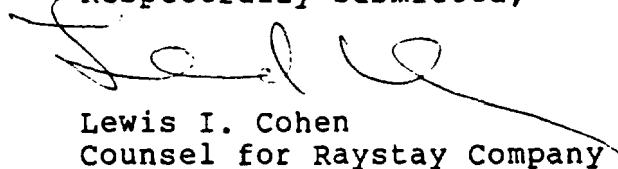
RE: BPTTL-890309NZ Lebanon, PA

Dear Ms. Searcy:

On behalf of Raystay Co. there is attached hereto a Declaration of George Gardner. This Declaration is a supplement to Mr. Gardner's Declaration filed on March 14, 1990 in the above captioned proceeding.

It is respectfully submitted that based upon the showing contained in this and the March 14 Declaration, the Commission should grant the above captioned application.

Respectfully submitted,



Lewis I. Cohen
Counsel for Raystay Company

Enclosure

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MAY 7 - 1990

Federal Communications Commission
Office of the Secretary

DECLARATION

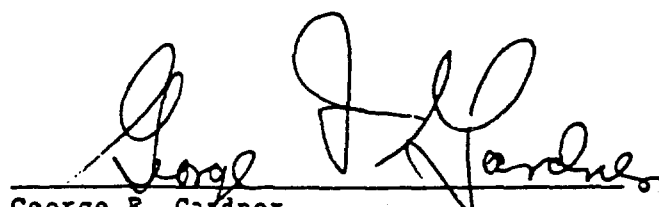
George F. Gardner hereby declares under penalty of perjury that the following is true and correct to the best of his personal knowledge:

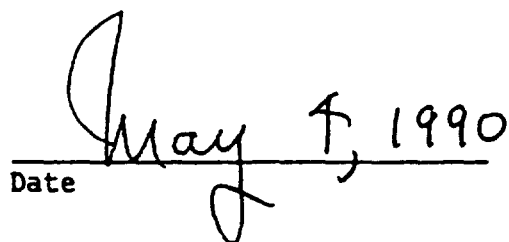
This Declaration is intended by me to supplement my early declaration dated March 11, 1990 which was submitted to the Commission on March 14, 1990.

Since the filing of the Advave application in 1983, no allegations have been made of any significant misconduct of any kind by myself or any company of which I am involved, and I am aware of no such misconduct. Out of an abundance of caution (since I do not believe it reflects significant misconduct), I would note that Raystay Co. was assessed a forfeiture of \$2,000 for repeated instances of signal leakage in excess of that permitted by the Rules on its cable television system in the Carlisle, Pennsylvania area. Raystay Co., 65 RR2d 1191 (1988).

In connection with the operation of low power station W40AF licensed to Raystay Co., I have instructed my FCC counsel, who are also Raystay's FCC counsel. to devise a compliance program which will ensure that Raystay's

I respectfully reaffirm that the circumstances warrant the conclusion that Raystay is qualified to be the licensee of the five LPTV stations at issue.


George F. Gardner


Date

ATTACHMENT 7

Letter of Roy J. Stewart to George F. Gardner, July 23, 1990

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

23 JUL 1990

IN REPLY REFER TO:

George F. Gardner, President
Raystay Company
P.O. Box 38
Carlisle, Pennsylvania 17013

In re: Low Power Television Applications of:
Raystay Company

~~BPTTL-890309NX~~ Red Lion, PA
~~BPTTL-890309NY~~ Lancaster, PA
~~BPTTL-890309NZ~~ Lebanon, PA
~~BPTTL-890309PA~~ Lancaster, PA
BPTTL-890309TD Lebanon, PA

Dear Mr. Gardner:

This is in reference to the above-captioned applications for low power television stations of Raystay Company (Raystay).

In 1984, the Commission designated for comparative hearing the license renewal application of RKO General, Inc. for Station WAXY-FM, Fort Lauderdale, Florida. One of the mutually exclusive applications in the proceeding was that of Adwave Company, wholly owned by you. You are also the president and controlling stockholder of Raystay which owns and operates several cable systems. In that proceeding, the Presiding Judge concluded that you deceived the Commission by a false divestiture commitment. RKO General, Inc., 2 FCC Rcd 3348 (ID 1987). The Review Board upheld this determination. RKO General, Inc., 4 FCC Rcd 4679, 4683 (Rev. Bd. 1989).

When the Station WAXY-FM settlement agreement was submitted to the Commission in 1989, you requested a ruling that your misconduct in the proceeding not bar you from acquiring other stations. In a Memorandum Opinion and Order, RKO General, Inc., 5 FCC Rcd 642, released February 2, 1990, the Commission vacated the underlying decisions as moot, but refused your request to find you unconditionally qualified to acquire additional stations. The Commission held that you should be subject to "heightened scrutiny" in reference to any future applications for a new station, which would require an affirmative showing of good character. The Commission said that you must, at a minimum, submit showings with future applications that: (1) you have not been involved in any significant wrongdoing since the misconduct in RKO occurred; (2) you enjoy a reputation for good character in the community; and (3) you intend to undertake meaningful measures to prevent the future occurrence of FCC-related misconduct. The Commission

also stated that any persons with adverse information may submit this information for consideration with the application. The Commission stated that this review was to be conducted by the Mass Media Bureau, which would render a determination. Id. at 644.

On March 14, 1990, you filed a showing with respect to the above-captioned low power television applications. Included in this showing is your statement that since the filing of the application included in the RKO hearing, there have been no allegations made of any significant broadcast-related misconduct by yourself or any company in which you are involved. In addition, five declarations attesting to your reputation for good character were submitted. Each declaration states that the declarant has known you for an extended period of time and that you enjoy a good reputation in your community. Further, your showing includes a statement that you disclosed the prior misconduct in each of your low power television applications, and that you now realize the importance of being absolutely candid with the Commission.

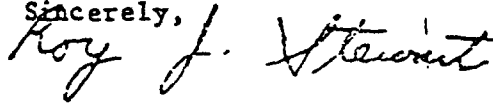
On May 7, 1990, you submitted an amended showing at the staff's request. In this showing you revealed that Raystay had been assessed a forfeiture in 1987 (affirmed by the Commission in 1989) for signal leakage in excess of that permitted by the rules on its cable television system in the Carlisle, Pennsylvania area. Aside from this, you state that there has been no significant wrongdoing of any kind since the RKO incident. Further, with respect to Raystay's existing low power television station and the five proposed stations, you state that you have instructed your counsel to devise a compliance program which will ensure that Raystay's operation of its low power television stations is strictly in compliance with all Commission rules and regulations. You have further instructed counsel to report to you at three-month intervals regarding continuing compliance with Commission rules and regulations.

We believe that your submissions in this instance warrant grant of the above-captioned applications. The Carlisle forfeiture proceeding involved matters of importance to the Commission, but the record there does not establish that the derelictions flowed from a lack of requisite character. Nor does the record before us disclose a pattern of noncompliance with technical requirements either at the Carlisle or any of the other Raystay cable television systems. However, we see no reason at this time to

3.

of time since the Commission's opinion. Accordingly, an affirmative showing of rehabilitation and good character, in accordance with the guidelines set out in RKO, must be submitted to the Bureau with future applications to acquire or construct broadcast stations. Grant of those applications will be dependent on fulfillment of the requirements set forth by the Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roy J. Stewart".

Roy J. Stewart
Chief, Mass Media Bureau

cc: Lewis I. Cohen, Esq.

ATTACHMENT 8

Exhibit 2 of Glendale Application

EXHIBIT 2

George F. Gardner is the controlling stockholder of Raystay Company which is the licensee of low power television station W40AF at Dillsburg, PA. Raystay is also the permittee of the following low power television stations:

<u>Call Letters</u>	<u>Location</u>
W38BE	Lebanon, PA
W55BP	Lebanon, PA
W56CJ	Red Lion, PA
W31AX	Lancaster, PA
W23AW	Lancaster, PA

Mary Anne Adams is the trustee for her two sons, Patrick Joseph Molle and Gregory George Molle. Each son owns 8.5% of the Class B non-voting stock of Raystay.

Raystay Company was the owner and operator of standard broadcast station WEEO in Waynesboro, PA from January 1971 to February 1980 and from August 1983 to October 1984. Raystay Company operated standard broadcast station WTTO in Toledo, OH from November 1973 to August 1976.

George F. Gardner was the controlling stockholder of West Shore Broadcasting Co., Inc., which owned and operated FM broadcast station WQVE in Mechanicsburg, PA from 1978 to August 1982.

George F. Gardner was a limited partner in Los Angeles Television, a Limited Partnership (LATV). LATV

was an applicant for a construction permit for a new commercial television station seeking the facilities of KHJ-TV, Los Angeles, California. In RKO General, Inc., 3 FCC Rcd 5057, 65 RR 2d 192 (1988), the Commission dismissed LPTV's application as unacceptable for filing. A second application for the same facilities (File No. BPCT-881028KG) was dismissed by the Commission in RKO General, Inc. (KHJ-TV), 4 FCC Rcd 1304, 65 RR 2d 1548 (1989). LATV appealed the Commission's actions to the U.S. Court of Appeals. LATV then dismissed its appeal pursuant to an Agreement to Dismiss Appeal dated August 3, 1989.

George F. Gardner was the sole stockholder of Adwave Company, an applicant for a construction permit for a new FM broadcast station on Channel 290 at Fort Lauderdale, FL (File No. BPH-830510AL). In RKO General, Inc., 4 FCC Rcd 4679, 66 RR 2d 1162 (Rev. Bd. 1989), the Review Board, with Board Member Blumenthal dissenting, disqualified Adwave because it resolved a misrepresentation/lack of candor issue involving a divestiture commitment by George F. Gardner, Adwave's sole stockholder, adversely to Adwave. In RKO General, Inc. (WAXY-FM), 5 FCC Rcd 642, 67 RR 2d 508 (1990), the Commission approved a settlement agreement dismissing Adwave's application.

The Commission ruled that George Gardner could submit a specific showing of good character in support of future applications he might file with the Commission. Such a showing was made and accepted with respect to the low power television stations of which Raystay is now a permittee. See letter dated July 23, 1990 to George F. Gardner signed by Roy J. Stewart, Chief of the Mass Media Bureau (in re BPTTL-890309NX, Red Lion, PA, et al.). The applicant reaffirms the affirmative showing of rehabilitation and good character accepted by the Mass Media Bureau in 1990. Furthermore, since the filing of the Adwave application in 1983, no allegations have been made of any significant misconduct of any kind by George F. Gardner, or any company with which he has been involved. Furthermore, he is aware of no such misconduct.

ATTACHMENT 9

Glendale Application (Portion)

Ref. Room

LAW OFFICES

COHEN AND BERFIELD, P.C.

BOARD OF TRADE BUILDING

1129 20TH STREET, N.W.

WASHINGTON, D.C. 20036

(202) 466-8565

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MORTON L. BERFIELD
ROY W. BOYCE
JOHN J. SCHAUBLE*

*VIRGINIA BAR ONLY

TELECOPIER
(202) 785-C934

December 27, 1991

Federal Communications Commission
Mass Media Services
P.O. Box 358165
Pittsburgh, PA 15251-5165

JAN 2 10 16 AM '92

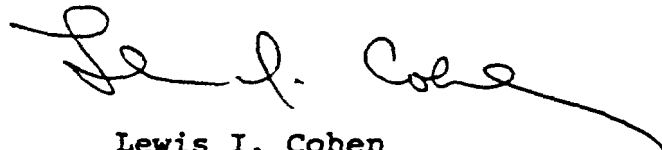
Dear Sir/Madam:

On behalf of Glendale Broadcasting Company, we are submitting an original and two copies of an application for a construction permit for a new commercial television station on Channel 45 at Miami, Florida. The tendered application is timely filed pursuant to Section 73.3516(e) of the Commission's rules and is mutually exclusive with the pending renewal application of WHFT, Miami, Florida.

A check for \$2,535 is enclosed as payment of the hearing fee, along with FCC Form 155.

Should there be any questions, kindly communicate directly with this office.

Respectfully submitted,



Lewis I. Cohen

Enclosures

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

For COMMISSION Fee Use Only

FEE NO:

FEE TYPE:

FEE AMT:

ID SEQ:

For APPLICANT Fee Use Only

Is a fee submitted with this
application?

☒ Yes ☐ No

If fee exempt (see 47 C.F.R. Section 1.1112),
indicate reason therefor (check one box):

☐ Noncommercial educational licensee

☐ Governmental entity

FOR COMMISSION USE ONLY

FILE NO. BPCT-911227KE

Section 1 - GENERAL INFORMATION

1. Name of Applicant

GLENDAL BROADCASTING COMPANY

Street Address or P.O. Box
P.O. Box 38

Send notices and communications to the following
person at the address below: *

Name

George F. Gardner

Street Address or P.O. Box
P.O. Box 38

SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Does the applicant propose to employ five or more full-time employees?

☒ Yes ☐ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC 806-A).

SECTION VII - CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirement of 47 C.F.R. Section 73.5580?

☒ Yes ☐ No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose?

☒ Yes ☐ No

If No, attach as an Exhibit, a full explanation.

Exhibit No.

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of Person Contacted

James L. Sorensen

Telephone No. (include area code)

305-621-8107

Person contacted: (check one box below)

☐

Owner

☒

Owner's Agent

☐

Other (specify)

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.55, the APPLICANT has a continuing obligation to advise the Commission through amendments of any substantial and significant changes in information furnished.

SECTION VII - CERTIFICATION (Page 5)

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT

ATTACHMENT 10

Affidavit of James L. Sorensen

[The original of this Affidavit is appended to TBF's "Motion To Dismiss Application of Glendale Broadcasting Company," filed concurrently herewith]

AFFIDAVIT

NOW COMES James L. Sorensen, who having been sworn, does depose and say that he is the Tower Manager and Chief Engineer of TAK Broadcasting Corporation, a Delaware Corporation, which is the owner and operator of that specific radio transmission tower located at 3300 Pembroke Road, Pembroke Park, Florida identified as Stainless, Inc. Tower # 2182; FCC/FAA Tower # 1002, and known to the local trade as "Candlebara."

And further, that neither Glendale Broadcasting nor any agent or representative of theirs executed that specific letter of intent to negotiate for Tower Space which I sent to them on or about 09 December 1991. This offering by TBC expired as of 31 January 1992.

And further, that to date, there has been no further contact between Glendale and this office of TBC and that he has no knowledge of any further contact between these two entities for any purpose.

And further, that as evidence whereof he has caused such correspondence as has been had with Glendale his own office and with TBC's other offices regarding this matter.

Further the affiant saith naught.

Affiant:

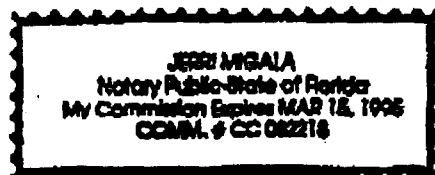
James L. Sorensen

Sworn to and subscribed before me this 26 day of March, 1993
by James L. Sorensen.

Jerri Migala
Jerri Migala

Notary Public, State of Florida

(seal)



Letter of Intent to Negotiate an Agreement

09 December 1991

Mr. Gregory B. Daly
TelSA, Inc.
P. O. Box 32223
Washington, D.C. - 20007-0523

CERTIFIED

REF: Glendale Broadcasting Corporation

Dear Mr. Daly:

Thank you for your interest in leasing, or assuming a lease, for tower space at our facility in Miami / Ft. Lauderdale, being that specific steel transmission tower located at 3300 Pembroke Road, Pembroke Park, Florida and also known as Stainless, Inc. Tower Nr. 2182, FAA/FCC tower Nr. 1002 and to the trade as "Candleabra".

We have reviewed your standard letter of intent and prefer to send this letter to you which more accurately spells out our understanding of the requirements of your client and our willingness to try and meet those requirements.

BY THIS LETTER, TAK Broadcasting Corporation ("TBC") extends to your client, Glendale Broadcasting Corporation ("Glendale"), an offer to negotiate a new lease for the tower space now held by WHFT-TV on our tower if:

a) Glendale is a qualified licensee for the operation of the facility in question. Glendale represents that it now holds other similar Licenses, Construction Permits, or other vehicles of authority from the FCC, and that it now holds a valid FCC Construction Permit or Station Operating License for the facilities of WHFT-TV or will do so at the outset of any negotiations which may result from this agreement.

b) Glendale is able to enter into a lease from TBC and to perform to the specifications of such a lease under Florida Law.